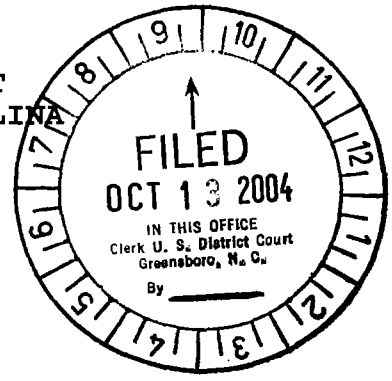


D/KS

496

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



CROWN CORK & SEAL COMPANY, INC. )  
 and CLARK EQUIPMENT COMPANY, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 CBS CORPORATION, et al., )  
 )  
 Defendants. )  
 ----- )  
 CBS CORPORATION, et al., )  
 )  
 Third-Party Plaintiffs, )  
 )  
 v. )  
 )  
 INGERSOLL-RAND COMPANY, et al., )  
 )  
 Third-Party Defendants. )

1:99CV00869

RECOMMENDATION NO. 26 OF MAGISTRATE JUDGE ELIASON

Plaintiffs have filed a motion to dismiss and bar all further claims, cross-claims and third-party claims against settling defendant Reynolds Metals Company ("Reynolds"). (Docket No. 458) Defendant Reynolds has filed a motion to dismiss the cross-claims or third-party claims by any party. (Docket no. 493) No party has filed an opposition to plaintiff's motion to dismiss and the time for doing so has run. The basis for this motion is the same as was dealt with in Recommendation No. 3. This Recommendation was adopted by the Court and judgment was entered on January 9, 2001. (Docket Nos. 219 & 220) For the same reasons as were set out in Recommendation No. 3, it is recommended that plaintiffs' motion to dismiss as to this defendant be granted and that defendant

Reynolds' motion to dismiss cross-claims and third-party claims by any party be granted as well

**IT IS THEREFORE RECOMMENDED** that plaintiffs' motion to dismiss defendant Reynolds Metals Company as a defendant from this lawsuit with prejudice, and further, that all cross-claims or third-party claims arising out of plaintiffs' claims for recovery of their RI/FS costs, RD/RA costs, or any other response costs against Reynolds Metals Company (docket no. 458) and as joined in by defendant Reynolds Metals Company (docket no. 493) be granted, and that the Court, in fact, dismiss any cross-claim or third-party claim by any party against defendant Reynolds Metals Company with prejudice as a result of its settlement of plaintiffs' claims, and further, that the Court accept the Uniform Comparative Fault Act proportionate share rule for this case so that plaintiffs' contribution claims against the non-settling defendants will be reduced by the fair share of Reynolds Metals Company and further, that a final, appealable judgment be entered concerning the dismissal of Reynolds Metals Company from this action, inasmuch as there is no just reason to delay the entry of a final, appealable judgment.

  
United States Magistrate Judge

October 13, 2004